

## United States Senate

SPECIAL COMMITTEE ON AGING

WASHINGTON, DC 20510-6400

(202) 224-5364

April 5, 2019

The Honorable Daniel R. Levinson  
Inspector General  
U.S. Department of Health and Human Services  
330 Independence Avenue, S.W.  
Washington, DC 20201

Dear Mr. Levinson:

Reports from across the country have surfaced alleging that some Medicaid managed care companies (MCOs) continuously deny care to patients sorely in need of care.<sup>1</sup> In some cases, patients have experienced entirely preventable life-altering harms.<sup>2</sup> Due to concerns that some MCOs are putting their bottom line ahead of patient health and safety, I am requesting that you open an investigation into this industry to shed light on whether all patients enrolled in Medicaid managed care can successfully access the services to which they are entitled. I am also requesting that the investigation review the Centers for Medicare & Medicaid Services' (CMS) role in providing sufficient and appropriate oversight to ensure that people with Medicaid are receiving the care that they are entitled to.

Medicaid is designed to ensure that the children, older adults, people with disabilities and families most in need of medical care can access affordable services. Medicaid MCOs are entrusted with the responsibility to provide this vital care and coordinate health care coverage for approximately 65 million Americans.<sup>3</sup> Of the 37 million children enrolled in Medicaid, over two thirds have their care managed by MCOs.<sup>4</sup>

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<sup>1</sup> Dallas Morning News, *Pain & Profit: Investigating Medicaid Managed Care in Texas* (June 2018) (<https://www.dallasnews.com/news/medicaid-managed-care/collection/pain-profit-investigating-medicaid-managed-care-texas>); Des Moines Register, *Care Denied: How Iowa's Medicaid maze is trapping sick and elderly patients in endless appeals* (2018) (<http://features.desmoinesregister.com/news/medicaid-denials/>); Kaiser Health News, *Coverage Denied: Medicaid Patients Suffer As Layers Of Private Companies Profit* (Jan. 2019) (<https://khn.org/news/coverage-denied-medicaid-patients-suffer-as-layers-of-private-companies-profit/>).

<sup>2</sup> Dallas Morning News, *Pain & Profit: Investigating Medicaid Managed Care in Texas* (June 2018) (<https://www.dallasnews.com/news/medicaid-managed-care/collection/pain-profit-investigating-medicaid-managed-care-texas>).

<sup>3</sup> Centers for Medicare and Medicaid, *Medicaid Managed Care Enrollment and Program Characteristics* (2016) (<https://www.medicare.gov/medicaid/managed-care/downloads/enrollment/2016-medicare-managed-care-enrollment-report.pdf>);

<sup>4</sup> Schneider, Andy, *How Can We Tell Whether Medicaid MCOs are Doing a Good Job for Kids?*, Georgetown University Health Policy Institute (Feb. 26, 2018) (<https://ccf.georgetown.edu/2018/02/26/how-can-we-tell-whether-medicare-mcos-are-doing-a-good-job-for-kids/#easy-footnote-bottom-2-32797>).

The *Dallas Morning News* released a series of reports detailing instances where one of the largest MCOs in America, Centene, routinely denied access to care.<sup>5</sup> In one case, Superior Health Plan, a subsidiary of Centene, denied round-the-clock nursing care to D’ashon Morris, a child who needed a tracheostomy tube to help him breathe. Because D’ashon was a toddler, who would routinely pull out his tracheostomy tube, his doctors and nurses recommended around-the-clock nursing care to ensure his health and safety. Superior Health Plan denied that request. As his nurses warned, D’ashon pulled out his tracheostomy tube during one of the hours when he was without direct care and spent so much time without oxygen that he now has limited brain function. His quality of life was severely affected by Superior Health Plan’s denial of care.

In addition to heart breaking stories like D’ashon’s, there are allegations of other MCOs systematically denying coverage for claims or pressuring employees to deny high-cost requests for coverage.<sup>6</sup> The *Des Moines Register* investigated the practices of Medicaid MCOs in Iowa and found routine denials of care, endless appeals and numerous failures by MCOs to provide timely notification to people with Medicaid of their right to appeal.<sup>7</sup>

In one case, the Medicaid MCO, Amerigroup, denied access to regular in-home medical services to Betty Frink, a woman with pancreatic cancer who was homebound and needed nurses or social workers to help assess her pain levels, diabetic management and other medical conditions. After being denied care, and several appeals, a District Court judge finally found that Amerigroup’s decision to deny Betty’s care was “unreasonable, arbitrary, capricious or an abuse of discretion.”

This report and others like it suggest that some MCOs are erecting harmful barriers to access and illuminate a dangerous pattern of denials and needless red tape. It is the duty of MCOs, as a steward of taxpayer dollars, to spend Medicaid funds responsibly in pursuit of the health of our families. What the *Dallas Morning News* and *Des Moines Register* uncovered, however, were actions taken by MCOs focused squarely on delivering profits to wealthy shareholders at the expense of those most in need of medical care.

As states turn to MCOs to manage their Medicaid portfolios, we have a sacred responsibility to ensure that patients, like D’ashon and Betty, have access to the care they need. Given these concerns, I request that you conduct a review of the Medicaid MCO industry to determine whether these companies are meeting their obligations to serve children, older adults, people with disabilities and their families. Specifically, I encourage the Office of Inspector General to address the following questions:

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<sup>5</sup> Dallas Morning News, *Pain & Profit: Investigating Medicaid Managed Care in Texas* (June 2018) (<https://www.dallasnews.com/news/medicaid-managed-care/collection/pain-profit-investigating-medicaid-managed-care-texas/>).

<sup>6</sup> Kaiser Health News, *Coverage Denied: Medicaid Patients Suffer As Layers Of Private Companies Profit* (Jan. 2019) (<https://khn.org/news/coverage-denied-medicaid-patients-suffer-as-layers-of-private-companies-profit/>); Kaiser Health News, *Whistleblower: Medicaid Managed-Care Firm Improperly Denied Care To Thousands* (Dec. 1 2017) (<https://khn.org/news/whistleblower-medicaid-managed-care-firm-improperly-denied-care-to-thousands/>); Dallas Morning News, *Pain & Profit: Investigating Medicaid Managed Care in Texas* (June 2018) (<https://www.dallasnews.com/news/medicaid-managed-care/collection/pain-profit-investigating-medicaid-managed-care-texas/>).

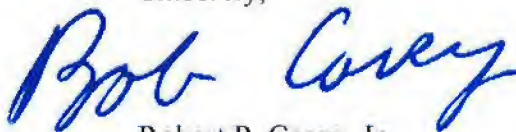
<sup>7</sup> Des Moines Register, *Care Denied: How Iowa’s Medicaid maze is trapping sick and elderly patients in endless appeals* (2018) (<http://features.desmoinesregister.com/news/medicaid-denials/>).

1. Have Medicaid MCOs knowingly denied care to enrollees that should have been covered?
2. Do Medicaid MCOs systemically deny care to patients? Further, do parent companies develop care denial protocol and distribute that protocol to subsidiaries?
3. Are people enrolled in Medicaid MCOs able to successfully navigate the appeals process? Further, do Medicaid MCOs respond in an adequate and timely manner to appeal requests?
4. Are people enrolled in Medicaid MCOs able to successfully issue grievances? Further, do Medicaid MCOs respond diligently and substantively to grievances brought forward by their enrollees?
5. Are children, people with disabilities, older adults and other individuals with complex conditions, who were historically not covered by managed care companies, adequately served by Medicaid MCOs?
6. Do children, people with disabilities, older adults or individuals with complex or chronic conditions face additional hurdles in gaining access to care from Medicaid MCOs? Are these individuals denied access to care at higher rates than other people enrolled in Medicaid MCOs?
7. Has CMS conducted sufficient oversight of to ensure that Medicaid MCOs are adequately meeting their obligations to provide access to care for people enrolled in Medicaid MCOs?
8. What type of data should CMS ensure states collect and analyze to ensure that patients are not inappropriately denied care?

Medicaid has been the foundation for the middle class, tens of millions of children, older adults, and people with disabilities for over 50 years. Medicaid is emblematic of who we are as a nation, reflecting who we value and the ideals we are willing to fight for. We must ensure Medicaid MCOs live up to these ideals and provide Americans with the health care that they deserve.

Thank you for your assistance with this request. Should you have any questions regarding this matter please contact Caitlin Warner at [caitlin\\_warner@aging.senate.gov](mailto:caitlin_warner@aging.senate.gov).

Sincerely,

A handwritten signature in blue ink that reads "Bob Casey". The signature is fluid and cursive, with the first and last names clearly legible.

Robert P. Casey, Jr.  
Ranking Member